

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

<b>Patricia M. Lewis,</b> Appellant,  <b>v.</b>  <b>Sioux City Board of Review,</b> Appellee.	<b>ORDER</b>  <b>Docket No. 14-107-0001</b> <b>Parcel No. 8947-20-208-026</b>  <b>Docket No. 14-107-0002</b> <b>Parcel No. 8947-20-208-032</b>
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On November 6, 2014, the above-captioned appeals came on for consideration before the Property Assessment Appeal Board. The appeals were conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Patricia M. Lewis was self-represented and requested her appeal proceed without a hearing. Assistant Sioux City Attorney Jack Faith is counsel for the Board of Review. The Appeal Board having reviewed the record, and being fully advised finds:

***Findings of Fact***

Patricia M. Lewis is the owner of two commercially classified, vacant lots located in Sioux City, Iowa. The property located at 311 W 26th Street (Parcel No. 8947-20-208-026) is a 0.218-acre site and assessed for \$54,200. (Exhibit B). The property at 311 ½ W 26th Street (Parcel No. 8947-20-208-032) is a 0.031-acre site and assessed for \$7800. (Exhibit C).

Lewis protested to the Board of Review regarding the 2014 assessments, which changed from the previous year making all grounds for appeal under section 441.37 available to her. Iowa Code § 441.37(1)(a)(1) (2014). She claimed the properties were assessed for more than the value authorized by law under section 441.37(1)(a)(1)(b). She asserted the correct value for both parcels combined was

\$23,500. She did not allocate this between the two parcels or request a hearing with the Board of Review. The Board of Review denied her claim. Lewis then appealed to this Board.

Lewis submitted Exhibits A-F, which this Board relabeled Exhibits 1-6.

Exhibit 1 is a printout from the Assessor's Beacon website. It shows the property located at 311 W 26th Street sold in March 2013 for \$10,000; and again in June 2013 for \$23,500. She provided no comparable exhibit for the property at 311 ½ W 26th Street; however, the Board of Review's Exhibit C is the property record card for this property. It indicates that property sold for \$850 in August 2013.

Lewis' Exhibits 2-5 are printouts of the 2001 and 2004-06 assessments of 311 W 26th Street from the Woodbury County Treasurer and not the Assessor's Office. We do not find these exhibits relevant in determining the fair market value of the properties.

Lastly, Lewis provided a written statement asserting the subject properties have been classified residential since at least 2001. (Exhibit 6). She notes they are now classified commercial, which she asserts changed with "no legal action or notification." (Exhibit 6). First, we note it does not appear Lewis raised a claim of misclassification to the Board of Review; and therefore we cannot consider it. § 441.37A(1)(b). Further, the Real Estate Assessment Roll identified a change in classification to commercial and served as the notification. (Exhibit A).

Although a misclassification claim is not before us, City Assessor Alan Jordan provided an affidavit on behalf of the Board of Review explaining the properties' classification change. (Exhibit F). Jordan explains in 2013, the zoning for the properties was changed from residential to commercial and "therefore the classification and valuation for 1/1/2014 was changed." (Exhibit F). We note that while zoning may contribute to a property's use, it is not a factor for classification under the administrative rule; rather, the property's actual use determines its classification. Iowa Admin. r. 701-71.21(1). The subject sites are vacant and the record does not support that the current use of the sites

are commercial. Nevertheless, as previously noted, we are without authority to grant relief on this ground.

Jordan also states the subject properties are listed for sale with an adjoining commercially developed site. According to Jordan, the three sites are listed as a unit for \$449,000, as of May 2014. However, we do not find the listing provided by the Board of Review, which includes an improved site, to be sufficient evidence to determine the market value of the individual subject parcels.

### ***Conclusion of Law***

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). If sales are not available to determine market value then "other factors," such as

income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

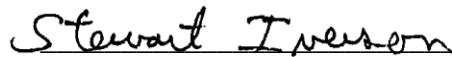
In an appeal alleging the property is assessed for more than the value authorized by law under section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Lewis asserts the fair market value must be what she paid for the properties. However, we note that the sales price alone does not conclusively establish the subject's market value. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289 (Iowa 1996). Rather, this Board must determine what constitutes the most reliable and persuasive evidence of the property's market value. *Id.* Lewis did not provide any additional information, such as an appraisal that was done at the time of sale to support that the price was market value. With only a notation on the property record cards regarding a sale of each of the properties, we are not persuaded that these values represent the properties' fair market value.

THE APPEAL BOARD ORDERS the 2014 assessments of Patricia M. Lewis' properties located at 311 W 26th Street and 311 ½ W 26th Street, Sioux City, Iowa, set by the Sioux City Board of Review, are affirmed.

Dated this 2nd day of December, 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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